IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 25 OF 2004

IN

SUIT NO. 4273 OF 1995

1(a) Valerian Peter Rodriques & Ors. ..Petitioners

Versus

Larry Joseph Durate & Anr. .. Respondents

Mr. A.V.Kshirsagar for the petitioners.

Mr.S.D.Mogre for Respondents.

CORAM: S.K.SHAH,J.

DATE : 19th November,2005.

P.C.

1. By Order dated 20th December, 1995, the Defendants i.e. Respondents herein were restrained by an injunction from parting with possession of the suit premises or any part thereof or creating any third party rights therein or inducting anyone else in the suit premises. This Contempt Petition is filed on the allegation that the Respondents have parted with possession of the premises by inducting a tenant.

2. The Respondent no.1 has filed an affidavit admitting the fact that the tenant had been inducted subsequent to the order passed by this Court. He apologised for the same. In the affidavit, he has however, given explanation of he being under the wrong impression that there was no injunction in respect of the suit premises. The petitioner had filed the suit in the City Civil Court, being S.C.Suit No.1782 of 1993 wherein interim injunction was granted. The said suit came to be dismissed on 18.11.1997. The Respondent No.1 submits in the affidavit that as a result of the dismissal of the suit and the injunction order passed in that suit having expired, he thought that he was free to lease the suit premises. It was his prima facie mistake.

3. It is important to note that immediately after the notice is issued in Contempt Petition, the Respondent No.1 got the suit premises vacated and it is now in possession of the Respondent No.1. This has been admitted by the learned Counsel for the petitioners is the correct position. The learned Counsel for the petitioners also requests that lenient view be taken in the matter. The apology is accepted though the explanation given is not acceptable.

4. In view of the fact that the Respondent No.1 has

now taken back possession of the premises, I do not find that it would be just to take any action against the Respondent No.1 and it is sufficient in the interest of justice to accept the unconditional apology tendered by the Respondent No.1.

5. It however appears that the electric meter installed in the suit premises continues to stand in the name of the person in whose favour the lease was created. On the last occasion, the learned Counsel for the Respondents had already undertaken to change the name of the meter. He however submits that the meter could not be changed although the application for change of the name of the meter is pending with the concerned authorities. The Respondent No.1 shall get the meter changed in his name within six months from today and if that is not possible, get the meter cancelled.

6. Liberty to the petitioners to move this Court if the change of name of the meter or cancellation of the meter is not done by the Respondent No.1.

7. The Show Cause Notice No.725 of 2004 stands discharged.

Contempt Petition stands disposed of.

(S.K.SHAH,J.)